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# **COMMERCE COUNCIL ACTION PACKET**

**Tuesday, April 25, 2006  
9:00 -10:00 a.m.  
Morris Hall**

# **COUNCIL MEETING REPORT**

## **Commerce Council**

**4/25/2006 9:00:00AM**

**Location:** Morris Hall (17 HOB)

### **Summary:**

#### **Commerce Council**

*Tuesday April 25, 2006 09:00 am*

HB 1199 CS Favorable With Committee Substitute

Yeas: 12 Nays: 2

**Committee meeting was reported out: Tuesday, April 25, 2006 10:51:04AM**

# COUNCIL MEETING REPORT

## Commerce Council

4/25/2006 9:00:00AM

**Location:** Morris Hall (17 HOB)

### Attendance:

	<i>Present</i>	<i>Absent</i>	<i>Excused</i>
Frank Farkas (Chair)	X		
Frank Attkisson	X		
Gus Billrakis	X		
Ellyn Setnor Bogdanoff	X		
Terry Fields	X		
Kenneth Gottlieb	X		
Edward Jennings	X		
Charlie Justice	X		
Dick Kravitz	X		
Kenneth Littlefield	X		
Dennis Ross	X		
Timothy Ryan	X		
Anthony Traviesa	X		
Trudi Williams	X		
<b>Totals:</b>	<b>14</b>	<b>0</b>	<b>0</b>

Committee meeting was reported out: Tuesday, April 25, 2006 10:51:04AM

# COUNCIL MEETING REPORT

## Commerce Council

4/25/2006 9:00:00AM

**Location:** Morris Hall (17 HOB)

**HB 1199 CS : Statewide Cable Television Franchises**

☒ *Favorable With Committee Substitute*

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Frank Attkisson	X				
Gus Bilirakis	X				
Ellyn Setnor Bogdanoff	X				
Terry Fields	X				
Kenneth Gottlieb	X				
Edward Jennings		X			
Charlie Justice	X				
Dick Kravitz		X			
Kenneth Littlefield	X				
Dennis Ross	X				
Timothy Ryan	X				
Anthony Traviesa	X				
Trudi Williams	X				
Frank Farkas (Chair)	X				
<b>Total Yeas: 12</b>		<b>Total Nays: 2</b>			

### Appearances:

Bob McKee, Fiscal Policy Director (Lobbyist) - Proponent  
Florida Association of Counties  
100 s. Monroe  
Tallahassee FL 32302  
Phone: 850/922-4300

John W. Smith (Lobbyist) - Information Only  
Fl. League of Cities  
301 S. Bronough St.  
Tallahassee FL 32301  
Phone: 222-9684

Charlie Dudley (Lobbyist) - Opponent  
Fl. Cable Telecommunications Asso.  
108 S. Monroe St., Suite 200  
Tallahassee FL 32301

John P. Fons (Lobbyist) - Information Only  
BellSouth  
2416 Elfving Ln  
Tallahassee FL 32301  
Phone: 850/933-2721

Committee meeting was reported out: Tuesday, April 25, 2006 10:51:04AM

# **COUNCIL MEETING REPORT**

## **Commerce Council**

**4/25/2006 9:00:00AM**

**Location:** Morris Hall (17 HOB)

At the request of Rep. Traviesa

Stephen Pociask, Pres. & Chief Economist - Information Only

The American Consumer Institute

13337 Glen Taylor Lane

Oak Hill VA 20171

Phone: 703/471-3954

Gwen Watson (General Public) - Opponent

Ft. Lauderdale NAACP Youth Council & Sec. FSCNAACP

512 N.E. 3rd Ave.

Ft. Lauderdale FL 33301

Gail Marie Terry (Lobbyist) - Information Only

Communications Workers of America

P. O. Box 1766

Pompano Beach FL

Phone: 954/850-4055

**Committee meeting was reported out: Tuesday, April 25, 2006 10:51:04AM**

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

Bill No. 1199

COUNCIL/COMMITTEE ACTION

ADOPTED — (Y/N)  
ADOPTED AS AMENDED — (Y/N)  
ADOPTED W/O OBJECTION — (Y/N)  
FAILED TO ADOPT — (Y/N)  
WITHDRAWN — (Y/N)  
OTHER —

Council/Committee hearing bill: Commerce Council  
Representative(s) Traviesa offered the following:

**Amendment (with Title Amendment)**

Remove line(s) 423-466 and insert:

(f) That the applicant is authorized by the Department of  
State to transact business in the state.

(g) That the applicant has sufficient technical,  
financial, and managerial capability to provide cable service  
within the service area for which the applicant seeks a  
certificate of franchise authority. At the time of the filing of  
the affidavit, the applicant shall furnish its most recent  
unqualified audited financial statement if a publicly available  
audited financial report is not available.

(h) That neither the applicant nor any of its current  
principal executive officers are under indictment or have been  
convicted of a felony in this state.

(5) If the department fails to act on the application  
within 30 business days after receiving the application, the  
application shall be deemed approved.

(6) The certificate of franchise authority issued by the  
department shall contain:

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

23       (a) A grant of authority to provide cable service over a  
24       cable system as requested in the application.

25       (b) A grant of authority to construct, maintain, and  
26       operate facilities through, upon, over, and under any public  
27       right-of-way or waters.

28       (c) A statement that the grant of authority is subject to  
29       lawful operation of the cable system to provide cable service by  
30       the applicant or its successor in interest.

31       (7) A certificateholder that seeks to include additional  
32       service areas in its current certificate shall file notice with  
33       the department that reflects the new service area or areas to be  
34       served.

35       (8) The certificate of franchise authority issued by the  
36       department is fully transferable to any successor in interest to  
37       the applicant to which the certificate is initially granted. A  
38       notice of transfer shall be filed with the department and the  
39       relevant municipality or county within 14 business days  
40       following the completion of such transfer.

41       (9) The certificate of franchise authority issued by the  
42       department may be terminated by the cable service provider by  
43       submitting notice to the department.

44       (10) An applicant may challenge a denial of an application  
45       by the department in a court of competent jurisdiction through a  
46       petition for mandamus.

47       (11) The department may revoke a certificate of franchise  
48       authority in the event that a court of competent jurisdiction  
49       finds, pursuant to s. 610.114, that a certificateholder is in  
50       noncompliance with the requirements of this chapter after notice  
51       and a reasonable time to cure.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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52       (12) The department shall adopt any procedural rules  
53       pursuant to ss. 120.536(1) and 120.54 necessary to implement  
54       this section.

55       (13) The department may establish a standard application  
56       form, in which case the application shall be on such form and  
57       must be accompanied by a one-time application fee established by  
58       the department, not to exceed \$10,000. The fees shall be based  
59       on the costs incurred by the department in performing its duties  
60       under the provisions of ss. 610.102-610.115.

61       (14) Beginning 3 years after approval of the  
62       certificateholder's initial certificate of franchise, and every  
63       3 years thereafter, the certificateholder shall update the  
64       information contained in the original application for a  
65       certificate of franchise. At the time of the filing of the  
66       information update, the certificateholder shall pay a processing  
67       fee, not to exceed \$1,000, for the costs incurred by the  
68       department in the handling of the information update.

69       (15) Beginning 10 years after approval of the  
70       certificateholder's initial certificate of franchise, and every  
71       10 years thereafter, the certificateholder shall file a renewal  
72       notice accompanied by an affidavit that contains the information  
73       required by subsection (4). At the time of the filing of the  
74       renewal notice, the certificateholder shall pay a fee, not to  
75       exceed \$10,000, established by the department. The fee shall be  
76       based on the costs incurred by the department in performing its  
77       duties under this subsection. Upon receipt of the notice of  
78       renewal and payment of the fee, the certificate shall be deemed  
79       automatically renewed unless the department files a notice of  
80       deficiency within 30 days. The certificateholder shall have 30  
81       days to cure any deficiency in its renewal notice.



HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

83 ===== T I T L E   A M E N D M E N T =====

84        Remove line 21 and insert:

85        state authorization to provide cable services; providing

86        requirements and procedures; providing for fees; providing

87

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

2

Amendment No. (for drafter's use only)

Bill No. 1199

COUNCIL/COMMITTEE ACTION

ADOPTED \_\_\_\_\_ (Y/N)  
ADOPTED AS AMENDED \_\_\_\_\_ (Y/N)  
ADOPTED W/O OBJECTION \_\_\_\_\_ (Y/N)  
FAILED TO ADOPT \_\_\_\_\_ (Y/N)  
WITHDRAWN \_\_\_\_\_ (Y/N)  
OTHER \_\_\_\_\_

Council/Committee hearing bill: Commerce Council  
Representative(s) Traviesa offered the following:

**Amendment (with title amendment)**

Between lines 466 and 467, insert:

(13) In addition and subject to the requirements of ss. 610.102-610.114, a provider of competitive video programming services shall apply for and obtain a state-issued certificate of franchise authority under ss. 610.102-610.114, including all rights and obligations associated therewith, before providing such services in the state, notwithstanding that competitive video programming service is not a cable service as defined in s. 610.103. For purposes of ss. 610.102-610.114, the term "competitive video programming services" means video programming provided through wireline facilities located at least in part of the public right-of-way without regard to delivery technology, including Internet Protocol technology, provided that this definition does not include any video programming provided by a cable service operator, any video programming provided solely as part of interactive on-demand services, any video programming service provided by a commercial mobile service provider defined

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

in 47 U.S.C. s. 322(b), or any information service, as defined  
by Federal law.

===== T I T L E A M E N D M E N T =====

Remove lines 20 and 21 and insert:

authorizing authority; providing definitions; requiring  
state authorization to provide cable services and  
competitive video programming services; providing

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

3

Amendment No. (for drafter's use only)

Bill No. 1199

COUNCIL/COMMITTEE ACTION

ADOPTED \_\_\_\_\_ (Y/N)  
ADOPTED AS AMENDED \_\_\_\_\_ (Y/N)  
ADOPTED W/O OBJECTION \_\_\_\_\_ (Y/N)  
FAILED TO ADOPT \_\_\_\_\_ (Y/N)  
WITHDRAWN \_\_\_\_\_ (Y/N)  
OTHER \_\_\_\_\_

1 Council/Committee hearing bill: Commerce Council  
2 Representative(s) Attkisson offered the following:

4 **Amendment (with title amendment)**

5 Remove line 794 and insert:

6 Section 6. Section 166.046, Florida Statutes, is amended  
7 to read:

8 (Substantial rewording of section. See  
9 s. 166.046, F.S., current text.)

10 166.046 Definitions; municipal or county ordinance for  
11 cable service.--

12 (1) For purposes of this section, the definitions of s.  
13 610.103 apply.

14 (2) No later than July 1, 2007, a municipality or county  
15 shall adopt by ordinance, after a duly noticed public hearing,  
16 the terms and conditions for cable service within its  
17 jurisdiction as provided by 47 U.S.C. s. 541.

18 (3) An ordinance adopted by the municipality or county  
19 governing board may include:

20 (a) Requirements that the cable operator provide adequate  
21 public educational and government access channel capacity,

Redraft B

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

facilities, or financial support, not to exceed the requirements of s. 610.109(11), of:

1. Up to 6 access channels in a jurisdiction with a population greater than 100,000.

2. Up to 3 access channels in a jurisdiction with a population greater than 50,000 but less than 100,000.

3. Up to 2 access channels in a jurisdiction with a population less than 50,000.

(b) Requirements that the cable operator provide cable service to public facilities and provide capacity for public notification during emergency situations.

(c) Requirements regarding the placement and maintenance of facilities in the public right-of-way which are applicable to providers of communications services pursuant to s. 337.401.

(d) Requirements of minimal cable service standards as provided by federal rules in 47 C.F.R. s. 76.309(c).

A county and any municipality within such county may adopt through interlocal agreement an ordinance that provides for countywide standards for the operation of cables service.

===== T I T L E A M E N D M E N T =====

Remove line(s) 61-64 and insert:

report requirements; providing severability; amending s. 166.046, F.S.; providing definitions; requiring a municipality or county to adopt by ordinance terms and conditions for cable service as provided by federal law; providing authorized requirements for the ordinance; authorizing a county and

Redraft B

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

51 municipality to adopt an ordinance providing for countywide  
52 cable service operation standards; amending s. ss. 350.81 and

Redraft B

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

Bill No. 1199

COUNCIL/COMMITTEE ACTION

ADOPTED \_\_\_\_\_ (Y/N)

ADOPTED AS AMENDED \_\_\_\_\_ (Y/N)

ADOPTED W/O OBJECTION \_\_\_\_\_ (Y/N)

FAILED TO ADOPT \_\_\_\_\_ (Y/N)

WITHDRAWN \_\_\_\_\_ (Y/N)

OTHER \_\_\_\_\_

Council/Committee hearing bill: Commerce Council

Representative(s) Farkas offered the following:

**Amendment (with directory and title amendments)**

Remove line(s) 512 - 514 and insert:

610.107 Buildout.—No franchising authority, state agency, or political subdivision may impose any buildout requirements on a certificateholder that are required to be completed in less than 3 years from the date of issuance of a certificate of franchise authority. However, each certificateholder, if

===== T I T L E A M E N D M E N T =====

After the word "certificateholder", insert:  
with certain exceptions

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